

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

No. 08-01789 (CGM)

SIPA LIQUIDATION
(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

UBS AG, et al.,

Defendants.

Adv. Pro. No. 10-04285 (CGM)

STIPULATION AND ORDER

Irving H. Picard, as trustee (the "Trustee") for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the estate of Bernard L. Madoff, and defendant Luxalpha SICAV ("Luxalpha") as represented by its Liquidators, Maître Alain Rukavina and Paul Laplume, in their capacities as liquidators and representatives of Luxalpha (together, the "Parties"), by and through their respective undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, the Trustee initiated the above-captioned adversary proceeding by filing a complaint on November 23, 2010;

WHEREAS, the Trustee moved for leave to file a second amended complaint (the "Proposed Second Amended Complaint") on March 2, 2020 [ECF No. 247] (the "Motion for Leave to Amend");

WHEREAS, on April 3, 2020, Luxalpha opposed the Motion for Leave to Amend and cross-moved for the allowance of its claim (the "Cross-Motion," and with the Motion for Leave to Amend, the "Motions") [ECF No. 251];

WHEREAS, other than Luxalpha, all defendants in the case as of April 24, 2020, consented to the filing of the Second Amended Complaint, subject to reservation of certain rights [ECF No. 253];

WHEREAS, after the Motions were fully briefed, the Honorable Stuart M. Bernstein entered an order adjourning the hearing on the Motions *sine die* until the United States Court of Appeals for the Second Circuit had resolved the applicable standard of good faith in *Picard v. Citibank, N.A.*, Case No. 20-1333 and *Picard v. Legacy Capital Ltd.*, Case No. 20-1334 (collectively, the "Good Faith Appeal");

WHEREAS, the United States Court of Appeals for the Second Circuit entered an opinion on the Good Faith Appeal on August 30, 2021;

WHEREAS, the Court entered a Stipulation and Order on January 20, 2022 setting forth a schedule for the Trustee to file a Second Amended Complaint and a schedule for defendants to respond to the filed Second Amended Complaint in this action [ECF No. 272];

WHEREAS, the Cross-Motion was not addressed in the January 20, 2022 Stipulation and Order;

WHEREAS, the Trustee filed a Second Amended Complaint in this action on February 28, 2022 [ECF No. 274]; and

WHEREAS, the parties agree and stipulate that the Cross-Motion shall be withdrawn without prejudice and may be refiled at a future date.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel that:

1. The Cross-Motion set forth at ECF No. 251 be and hereby is withdrawn without prejudice and may be refiled at a future date.
2. Except as provided herein, nothing in this Stipulation and Order shall affect the rights, claims, defenses or arguments of any party in this action relative to the issues raised in the Cross-Motion.
3. This Stipulation and Order may be signed by respective counsel for the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation and Order shall be deemed an original.

Dated: April 18, 2022
New York, New York

/s/ Oren J. Warshavsky

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Liquidation of Bernard L. Madoff
Investment Securities LLC and the
Chapter 7 Estate of Bernard L. Madoff*

*Attorneys for Luxalpha SICAV, as represented by
its Liquidators, Maître Alain Rukavina and Paul
Laplume, in their capacities as liquidators and
representatives of Luxalpha SICAV*

SO ORDERED:

**Dated: April 19, 2022
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**